

## United States Patent and Trademark Office

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| APPLICATION NO.                  | FILING DATE   | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |  |
|----------------------------------|---------------|----------------------|-------------------------|------------------|--|
| 09/888,696 06/25/2001            |               | Steve Alister Nixon  |                         |                  |  |
| 75                               | 90 12/20/2002 |                      |                         |                  |  |
| David H. Vickrey Akzo Nobel Inc. |               |                      | EXAMINER                |                  |  |
| 7 Livingstone Avenue             |               |                      | MOORE, MARGARET G       |                  |  |
| Dobbs Ferry, N                   | Y 10522-3408  |                      | ART UNIT                | PAPER NUMBER     |  |
|                                  |               |                      | 1712                    | 0                |  |
|                                  |               |                      | DATE MAILED: 12/20/2002 | 9                |  |

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary  - 7th MAILING DATE of this communication appears on the cover sheet with the correspondence address - Act Unit Margaret G. Moore  - 7th MAILING DATE of this communication appears on the cover sheet with the correspondence address - Act Unit Margaret G. Moore  - 7th MAILING DATE of This COMMUNICATION.  THE period to repty appeals due of this communication.  - 1 the period to repty appeals due of this communication.  - 1 the period to repty appeals due of this communication.  - 1 the period to repty appeals due of this communication.  - 1 the period to repty appeals due of the communication.  - 1 the period to repty appeals due of the communication.  - 1 the period to repty appeals due of the communication.  - 1 the period to repty appeals due of the communication.  - 2 the period to repty appeals due of the communication.  - 3 the period to repty appeals due of the communication.  - 4 the period to repty appeals due to the communication.  - 4 the period to repty appeals due to the communication.  - 4 the period to repty appeals due to the communication.  - 5 the period to repty appeals due to the communication.  - 6 the period to the period to the communication.  - 6 the period to the communication is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  - 7 this action is FINAL.  - 2 this action is formation is incondition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  - 8 this action is FINAL.  - 2 this action is final to 16 is larger repicted.  - 7 this action is provided to 16 is larger repicted.  - 7 this action is provided to 16 is larger repicted.  - 7 this action is provided to 16 is larger repicted.  - 7 this action is provide |   |  | Application No.                    | Applicant(s)                                       |     |  |  |  |  |
|--|---|--|------------------------------------|--|-----|--|--|--|--|
| Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE of this communication appears on the cover sheet with the correspondence address =  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.136(s). In or event, however, may a reply be timely filed sheets by booker/15s from the timing date of dis communication.  **Brooker to work the provision of the provisions of 37 CFR 1.136(s).  **Brooker to work the provision of Claims  1) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is adosed in accordance with the practice under Ex parte Queyle, 1935 C.D. 11, 453 O.G. 213.  4) Claim(s) In add and In 16 is large repeting in the application.  4) Claim(s) In add and In 16 is large repeting in the application.  4) Claim(s) In a darge objected to the provision of the p |   |  | 09/888,696                         | NIXON, STEVE ALIS                                  | TER |  |  |  |  |
| Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  Extension at dism rany be available under the standard form of the s |   |  | Examiner                           | Art Unit   |     |  |  |  |  |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be switched wheth the previous of 31 CFR 1,136(d). In no event, however, may a nepty be timely field.  If the period for reply by specified inching date of this communication, and the communication. If the period for reply ty specified inching the date of this communication, and the period for reply ty specified above, the maximum authority period allege with substant KR (s) (MCRITES that the communication.  Failure to reply within the act or estanded period for reply veil, by statute, cause the specification to become ARABOOIED (59 U.S.C. § 117).  Responsive to communication (5) filled on <u>02 December 2002</u> 2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 10 4 and 9 to 16 is/are pending in the application.  4a) Of the above claim(s)   |   |  | Margaret G. Moore                  | 1712   |     |  |  |  |  |
| Estimations of time may be entabled under the interval of 100 No.  Estimations of time may be entabled under the interval of 100 No.  Estimations of time period for reply specified above is tags than thirty (20) days, a reply within the statisticity minimum of thirty (20) days will be considered limity.  Estimation of the period for reply specified above is tags than thirty (20) days, a reply within the statisticity minimum of thirty (20) days. It is not all the period for reply specified above is tags than the mention and the replace of the period of the communication.  Failube to reply specified above is tags than three months after the mailting above first in specification to become ASMADADAED (20 U.S.C. § 113).  Any reply received by the Office later than three months after the mailting above first in specification.  Failube to reply with the process of the communication of the period of the communication.  Any reply received by the Office later than three months after the mailting above and the specification of the second of the communication of the period of the second of the communication of the second of the communication of the second of | Period fe   | - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply   |                                    |  |     |  |  |  |  |
| 2a  This action is FINAL.   2b  This action is non-final.  | A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any |  |                                    |  |     |  |  |  |  |
| 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1 to 4 and 9 to 16 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some *c) None of:  1 Certified copies of the priority documents have been received in Application No application from the International Bureau (PCT Rule 1.7.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121.  Attachment(s)  10   | 1)[2]   | Responsive to communication(s) filed on 02 D   | ecember 2002                       |  |     |  |  |  |  |
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Application/Control Number: 09/888,696

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1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 1 to 4 and 9 to 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaki et al.

The teachings of Yamaki et al. have been discussed in the previous office action and as such this will not be repeated. Applicants have amended the claims to require more than 70% by weight solids. They note that the working examples show compositions having 20% by weight solids. However applicants are reminded that applicants are not limited by their examples and their attention is drawn to column 13, lines 32 to 53. As can be seen, the composition can *optionally* be diluted by solvents, in an effort to ease handling. They state that the ratio to be diluted may be suitably determined, i.e. adjusting the dilution and solids wt% is within routine experimentation for one having ordinary skill in the art. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (i.e. does not require undue experimentation). In view of the fact that the presence of additional solvents is optional and patentees state that the dilution can be suitably determined for ease of handling, adjusting the solids content of the composition of Yamaki et al. such that it lies within the claimed range would appear to have been obvious and as such, the instant claims are rendered obvious.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 703-308-4334. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on 703-308-2340. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9311 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Margaret 43. Moo Primary Examiner

Art Unit 1/12

mgm June 18, 2003